

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID RANDOLPH SCOTT,

Plaintiff,

v.

CITIZEN WATCH COMPANY OF
AMERICA, INC., et al.,

Defendants.

Case No. 17-cv-00436-NC

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS'
MOTION TO DISMISS**

Re: Dkt. No. 30

Defendants Citizen Watch Company of America, Inc. and Sterling Jewelers, Inc. moved to dismiss claims 1–3 and 5–9 of plaintiff David Randolph Scott’s first amended complaint, in which Scott alleges violations of his rights to privacy and publicity under common law and federal and California state statute. Scott’s ninth cause of action alleges unjust enrichment. However, unjust enrichment “is not a standalone cause of action” in California. *Astiana v. Hain Celestial Grp., Inc.*, 783 F.3d 753, 762 (9th Cir. 2015). Instead, it “describe[s] the theory underlying a claim that a defendant has been unjustly conferred a benefit ‘through mistake, fraud, coercion, or request.’” *Id.* (citing 55 Cal. Jur. 3d Restitution § 2). Scott does not allege a quasi-contract claim alleging unjust conferral of a benefit through mistake, fraud, coercion, or request. Thus, defendants’ motion to dismiss is GRANTED, with prejudice, as to Scott’s unjust enrichment claim.

Scott’s remaining claims are facially plausible based on the facts alleged, so defendants’ motion to dismiss is DENIED as to claims 1–3 and 5–8.

IT IS SO ORDERED.

Dated: June 28, 2017


NATHANAEL M. COUSINS
United States Magistrate Judge

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